

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN R. GAMMINO,

Plaintiff,

v.

AMERICAN TELEPHONE &  
TELEGRAPH COMPANY, ET AL.,

Defendants.

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Civil Action No. 12-666-LPS-SRF

**ORDER**

WHEREAS, Magistrate Judge Fallon issued a Report and Recommendation (D.I. 44) on November 15, 2012;

WHEREAS, the Report and Recommendation recommends that the Court enter an Order stating that: (1) AT&T's motion to dismiss Count II of the complaint (D.I. 21) is moot in light of Gammino's Notice of Voluntary Dismissal, and (2) the dismissal of Count II is with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(B).

WHEREAS, any Objections to the Report and Recommendation (D.I. 44) were to be filed by December 3, 2012;

WHEREAS, neither party has filed an Objection to the Report and Recommendation;

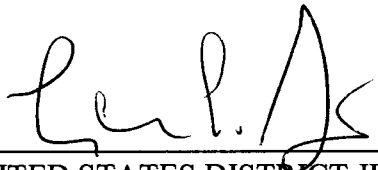
WHEREAS, the Court concludes that the Report and Recommendation should be adopted for the reasons stated by Magistrate Judge Fallon;

NOW THEREFORE, IT IS HEREBY ORDERED that the Report and Recommendation (D.I. 44) is **ADOPTED**; and

(1) AT&T's motion to dismiss Count II of the complaint (D.I. 21) is moot in light of Gammino's Notice of Voluntary Dismissal, and (2) the dismissal of Count II is with prejudice

pursuant to Federal Rule of Civil Procedure 41(a)(1)(B).

Dated: December 17<sup>th</sup>, 2012

  
UNITED STATES DISTRICT JUDGE